

September 14, 2009

**OFFICE OF THE HEARING EXAMINER  
KING COUNTY, WASHINGTON**

400 Yesler Way, Room 404  
Seattle, Washington 98104  
Telephone (206) 296-4660  
Facsimile (206) 296-1654  
Email [hearingexaminer@kingcounty.gov](mailto:hearingexaminer@kingcounty.gov)

**REPORT AND DECISION**

SUBJECT: Department of Development and Environmental Services File No. **E0701154**

**GILBERT CARRAHER**  
Code Enforcement Appeal

Location: 14618—682nd Avenue Northeast

Appellant: **Gilbert Carraher**  
c/o Meko Construction  
21907 - 64th Avenue West, Suite 100  
Mountlake Terrace, Washington 98043  
Telephone: (425) 501-8736

King County: Department of Development and Environmental Services (DDES)  
*represented by* **Jeri Breazeal**  
900 Oakesdale Avenue Southwest  
Renton, Washington 98055  
Telephone: (206) 296-7264  
Facsimile: (206) 296-6644

**SUMMARY OF RECOMMENDATIONS/DECISION:**

Department's Preliminary Recommendation:	Deny appeal, with revised compliance schedule
Department's Final Recommendation:	Deny appeal, with revised compliance schedule
Examiner's Decision:	Deny appeal, with revised compliance schedule

**EXAMINER PROCEEDINGS:**

Hearing opened:	July 31, 2008
Hearing continued:	July 31, 2008
Hearing reconvened:	September 1, 2009
Hearing closed:	September 1, 2009

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

**FINDINGS, CONCLUSIONS & DECISION:** Having reviewed the record in this matter, the Examiner now makes and enters the following:

**FINDINGS OF FACT:**

1. On May 13, 2008, the King County Department of Development and Environmental Services (DDES) issued a code enforcement Notice and Order to Appellant Gilbert Carraher. The Notice and Order found violations of county code on the premises of 14618 682nd Avenue NE in the unincorporated Skykomish area. The property is zoned Rural Area-2.5 (RA-2.5). The Notice and Order cited Mr. Carraher and the property with the following violations of county code:
  - A. Construction of an addition to a residence without required permits, inspections and approvals;
  - B. Accumulation of inoperable vehicles and vehicle parts on the external premises and parking/storage of vehicles on non-impervious (unimproved) surfaces; and
  - C. Accumulation of assorted rubbish, salvage and debris on the exterior premises.

Compliance was required by the Notice and Order to be performed by the submittal of a building permit application for the residential addition by August 15, 2008, or demolition in lieu of permit obtainment or in the event of permit denial; removal of the inoperable vehicles and vehicle parts from the premises or storage within a fully-enclosed building by July 16, 2008; and removal of rubbish, salvage and debris from the premises by July 16, 2008.
2. Mr. Carraher filed an appeal of the Notice and Order. The appeal does not contest the findings of violation, but requests additional time for compliance and referral to applicable code regulations.
3. The initial hearing on the appeal was continued from July 31, 2008 in order that the Appellant could pursue permit obtainment and compliance without adjudication of the appeal. The hearing was reconvened on September 1, 2009.
4. Appellant Carraher attended a permit pre-application meeting with DDES on October 9, 2008, but did not follow-up with a complete building permit application for the residential addition. He testified that he must submit a septic system “as-built” plan to the Seattle-King County Public Health Department (Health Department) in order to secure sanitation approval of the building construction. Finances have been an issue in providing the funding of the necessary plans and application work.
5. DDES testified at the September 1, 2009 hearing that substantial cleanup of the property had been performed but that there still remained some vehicle parts and debris necessary to remove to achieve full compliance. There remain on the site vehicle tires, a removed tailgate and wood and metal debris in loose piles. The Appellant questioned whether some salvage lumber could be kept in exterior storage on the property, and was informed by DDES that that is permissible only if there is an active construction project authorized on the property.

6. Mr. Carraher testified that three vehicles on the property could be brought into sufficiently operating condition (in running condition able to travel under their own power) within one month's time.
7. DDES recommended a sixth-month compliance period for obtainment of the necessary building permit, which will require Health Department sanitation approval as part of the permit application. DDES testified that it was not aware of any particular hazards associated with the unpermitted structural work.
8. DDES has made a *prima facie* case that the subject residential addition was constructed without benefit of the necessary permits, inspections and approvals; that inoperable vehicles and vehicle parts are in exterior storage on the property; and that rubbish, salvage and debris are present in exterior storage.
9. The found violation regarding parking/storage of vehicles on non-impervious surfaces was withdrawn at the September 1, 2009 hearing session.
10. Bringing the property into compliance with respect to the violations found by the Notice and Order appears readily feasible with diligent action by the Appellant.
11. Mr. Carraher asserted in unrefuted testimony that the structural addition in question was constructed prior to his ownership of the property. Accordingly, he qualifies as an innocent purchaser who is not subject to penalties with regard to that violation. As a successor property owner, however, he is responsible for correcting the violation and bringing the property into code compliance. If compliance is not performed by the property owner, the county is empowered to initiate abatement to achieve such compliance, with the power to assign reasonable abatement costs to the property. [KCC 23.02.130.B]

#### CONCLUSIONS:

1. Appellant Carraher at the September 1, 2009 hearing session raised the specter of unequal enforcement by the county, asserting that properties in the vicinity of the subject property exhibit similar violating conditions. The issue was not timely raised in his appeal, so cannot be considered as a valid actionable appeal claim. The examiner notes, however, that in any case the Examiner has no authority to grant equitable relief based on assertedly improper or unfair administration of the code enforcement and permit processes. The Examiner is generally limited to applying law duly enacted by statute, ordinance and rule, or set forth in case law, and has no authority to adjudicate common law issues such as claims in equity. Equity claims would instead have to be brought in a court of general jurisdiction, the Superior Court. [*Chaussee v. Snohomish County*, 38 Wn. App. 630, 689 P.2d 1084 (1984)]
2. As the structural work conducted on the residential addition was required to be conducted under a building permit, and no such permit was obtained, the pertinent charge of violation in the Notice and Order is shown to be correct and is therefore sustained. The compliance schedule below shall require the obtainment of the necessary permit(s). As noted above, Mr. Carraher is not subject to fines or penalties with respect to the building permit violation, having been found an innocent purchaser. Correction for compliance, however, is his responsibility.

3. The Notice and Order's findings of inoperable vehicles, vehicle parts and rubbish, salvage and debris present on the exterior premises of the site have been found correct. As such presence is in violation of county code, the pertinent charges of violation in the Notice and Order are therefore sustained, and the compliance schedule below shall require correction.

#### DECISION:

With the exception of the withdrawn finding of parking/storage on non-impervious surfaces, which is dismissed, the Notice and Order is sustained and the appeal **DENIED**, provided that the **COMPLIANCE SCHEDULE** is **REVISED** as stated in the following order.

#### ORDER:

1. Submit a complete building permit application to DDES *by no later than **March 15, 2010***, accompanied by Health Department sanitation approval. After such building permit submittal, all pertinent timeframes and stated deadlines for required supplementary information submittals, response comments, etc., if any, shall be diligently observed by the Appellant through to permit issuance and obtainment and final inspection approval.
2. In the event that the requested permit(s) is pursued and is ultimately denied, the pertinent non-permitted structural work shall be demolished and the demolition debris removed from the property *by no later than **30 days after such denial, or June 30, 2010, whichever is later***. (A demolition permit is evidently required, as is proper disposal; the Appellant shall consult with DDES regarding such requirements.)
3. Should the Appellant fail to submit a complete permit application by the above deadline, or if the Appellant chooses to demolish and remove the subject work rather than seek the necessary permits, the work shall be demolished and removed in accordance with any applicable permit and debris handling requirements *by no later than **June 30, 2010***.
4. *By no later than **October 15, 2009***, all vehicles in exterior storage/parking on the subject property shall be brought into operating condition, be placed in interior storage or removed from the subject property.
5. *By no later than **October 15, 2009***, the rubbish, salvage and debris on the exterior of the subject property shall be removed from the property with proper disposal, except that an additional one-month time period, to **November 16, 2009**, is granted for organizing and proper disposition of salvage lumber.
6. DDES is authorized to grant deadline extensions for any of the above requirements if warranted, in DDES's sole judgment, by circumstances beyond the Appellant's diligent effort and control.
7. No fines or penalties shall be assessed by DDES against Mr. Carraher and/or the property with respect to violation no. 1 of the Notice and Order regarding building permit violations for the structural addition. Correction is still required, however, by building permit obtainment and final inspection (or demolition and removal from the site of the unpermitted construction work) in compliance with the above requirements and deadlines. The county is empowered to initiate abatement to achieve compliance if necessary. In such case, reasonable abatement costs may be chargeable to the property as provided by county code.

8. No fines or penalties shall be assessed by DDES against Mr. Carraher and/or the property with respect to violation nos. 2 and 3 if the above pertinent compliance requirements and deadlines are complied with in full. However, if the above compliance requirements and deadlines with respect to violation nos. 2 and 3 are not complied with in full, DDES may impose penalties as authorized by county code retroactive to the date of this decision.

ORDERED September 14, 2009.

---

Peter T. Donahue  
King County Hearing Examiner

### **NOTICE OF RIGHT TO APPEAL**

Pursuant to Chapter 20.24, King County Code, the Examiner makes the final decision on behalf of the County regarding code enforcement appeals. The Examiner's decision shall be final and conclusive unless proceedings for review of the decision are properly commenced in Superior Court within 21 days of issuance of the Examiner's decision. (The Land Use Petition Act defines the date on which a land use decision is issued by the Hearing Examiner as three days after a written decision is mailed.)

#### **MINUTES OF THE JULY 31, 2008, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. E0701154**

Peter T. Donahue was the Hearing Examiner in this matter. Participating in the hearing were Jeri Breazeal representing the Department and Gilbert Carraher, the Appellant.

The following Exhibits were offered and entered into the record:

Exhibit No. 1	DDES staff report to the Hearing Examiner for E0701154
Exhibit No. 2	Copy of the Notice & Order issued May 13, 2008
Exhibit No. 3	Copy of the Notice and Statement of Appeal received May 28, 2008
Exhibit No. 4	Copies of codes cited in the Notice & Order
Exhibit No. 5	Photographs of subject property taken by Code Enforcement Officer Jeri Breazeal
Exhibit No. 6	King County Assessor Records ranging from 1967 to 1975

PTD:vsm  
E0701154 RPT